S.B.Cr.Misc. Bail App. No.5042/2007

(Banwari Lal Vs. State of Rajasthan)

Date of order : November 23, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.M.K.Garg, for the petitioner.
Mr.Ashok Upadhyaya, Public Prosecutor.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned and the challan papers.

It is contended by the learned counsel for the petitioner that the prosecutrix aged 18-19 years made a statement before the Investigating Officer, Police Station Rajiasar stating therein that the accused-petitioner and she have been working at Tharmal and accused-petitioner known to her; they fell in love and wanted to marry to each other. On 16.6.2007, the petitioner met her. On 17.6.2007, when the petitioner was at Nagaur, the prosecutrix contacted him on telephone and expressed her desire to go to Nagaur and Jodhpur for site seeing, thereupon the petitioner told her to meet at Bikaner and she went to Bikaner along with her dresses and met to the petitioner; they went to Nagaur and Jodhpur and had been moving around. The prosecutrix stated in her statement to the

police that she went to the petitioner on her own accord. However, subsequently, statement of the prosecutrix under section 164 Cr.P.C. has been recorded on 6.7.2007, wherein she alleged that the petitioner took away her by deceitful means and did the sin and wrong act at Jodhpur.

Be that as it may, keeping in view the statement of the prosecutrix recorded by the police under section 161 Cr.P.C., where, there is absolutely no allegation of rape, without commenting on the merit of the case, I consider it just and proper to enlarge the accused petitioner on bail.

Accordingly, the bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Banwari Lal s/o Samaro Ram be released on bail in FIR No.103/2007, P.S. Rajiasar provided he furnishes a personal bond in a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR),J.

m.asif/-